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IN THE

Supreme Court of the United States

Supreme Court, U. S.
FILED
AUG 14 1973

OCTOBER TERM, 1973

CITY OF NORTH LAS VEGAS,

Petitioner,

v.

CLARK COUNTY and
SUNRISE MANOR PROTECTIVE ASSOCIATION,

Respondents,

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF NEVADA

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AUGUST 13, 1973

IN THE
SUPREME COURT OF THE UNITED STATES.

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October Term, 1973

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INDEX

	Page
OPINIONS BELOW	2
JURISDICTION	2
QUESTIONS PRESENTED	3
CONSTITUTIONAL PROVISIONS INVOLVED	5
STATEMENT OF THE CASE	6
REASONS RELIED ON FOR ALLOWANCE OF WRIT	9
CONCLUSION	14
APPENDIX A (Opinion of the Supreme Court)	15
APPENDIX B (Denial of Rehearing – Supreme Court)	19
APPENDIX C (Denial of Stay Order – Supreme Court)	20
APPENDIX D (Opinion of Eighth Judicial District Court)	21
APPENDIX E (Stipulated Facts)	27

CASE CITATIONS

AMERICAN SURETY CO. v. BALDWIN, 287 U.S. 156	9
BRINKERHOFF–FARIS CO. v. HILL, 281 U.S. 673	9
DREYER v. ILLINOIS, 187 U.S. 71	12
GREAT NORTHERN RR CO. v. SUNBURST CO., 287 U.S. 358	9
HERNDON v. STATE OF GEORGIA, 295 U.S. 441	9

CASE CITATIONS

Page

MISSOURI v. GEHNER,
281 U.S. 313 9

MONACO v. MISSISSIPPI,
292 U.S. 313 12

OHIO v. AKRON PARK DISTRICT,
281 U.S. 74 9

RAILWAY EXPRESS AGENCY, INC. v. NEW YORK,
336 U.S. 106 13

SAUNDERS v. SHAW,
244 U.S. 317 9

SHELLEY v. KRAEMER,
334 U.S. 1 14

OTHER AUTHORITIES

16 AM. JUR.2d 488 13

16 AM. JUR.2d 491 14

NEVADA CONSTITUTION, Article 3 3

NEVADA REVISED STATUTES 268.582 15

NEVADA REVISED STATUTES 268.584 22

UNITED STATES CONSTITUTION,
Fifth Amendment 5

UNITED STATES CONSTITUTION.
Ninth Amendment 5

UNITED STATES CONSTITUTION,
Tenth Amendment 5

UNITED STATES CONSTITUTION,
Fourteenth Amendment 5

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CLARK COUNTY and
SUNRISE MANOR PROTECTIVE ASSOCIATION

Respondents.

———— * ————

The Petitioner, City of North Las Vegas, prays that a Writ of Certiorari issue to review the opinion and Judgment of the Supreme Court of the State of Nevada rendered in these proceedings on January 10, 1973; and followed by subsequent orders entered on March 20, 1973; March 23, 1973; March 29, 1973; and July 5, 1973.

OPINIONS BELOW

The opinion of the Supreme Court being 82 Nev., Adv. Op. 2, _____ Nev. _____, _____ P2d _____ (1973), appears at Appendix A, *infra*, page 15; a subsequent order denying a rehearing appears at Appendix B, page 19, *infra*; after two further orders of the Supreme Court, a final subsequent order of the Supreme Court appears at Appendix C, page 20, *infra*.

The opinion of the District Court appears at Appendix D, page 21, *infra*.

JURISDICTION

The order or judgment of the Supreme Court of the State of Nevada was entered on the 10th day of January, 1973. [Appendix A, page 15, *infra*.] Subsequent orders of the Supreme Court of Nevada were entered on March 20, 1973; [Appendix B, page 19, *infra*]; March 23, 1973; March 29, 1973; and July 5, 1973. [Appendix C, page 20, *infra*.] An Order Extending Time to File Petition for Writ of Certiorari was entered by the Supreme Court of the United States on June 25, 1973, extending the time to file this Petition for Writ of Certiorari to August 17, 1973, without prejudice to the Court's consideration of whether Petitioner's application for extension of time was timely filed. [United States Supreme Court No. A 1284] This Petition for Certiorari was filed by August 17, 1973. That the jurisdiction of this Court is invoked under 28 U.S.C. sec. 1257 (3).

QUESTIONS PRESENTED

The Petitioner in compliance with Nevada Revised Statutes, Chapter 268 passed and adopted two ordinances being Number 395 (Annexation No. 38) and Number 398 (Annexation No. 41). These Ordinances were challenged in the Eighth Judicial District Court, County of Clark, State of Nevada. The District Court held Annexations No. 38 and No. 41 to be valid. The Plaintiffs appealed the District Court's ruling to the Nevada Supreme Court. A majority of the facts of the case were stipulated to by all the parties. [Appendix E, page 27, *infra.*] The Nevada Supreme Court, basing its decision on facts contrary to the stipulated facts of record, more than two years later, reversed the holding of the District Court. The questions thereby arising are:

1. Whether the action of the Nevada Supreme Court, through error in interpretation of facts, usurped the powers of the Legislative Department of the State Government which is violative of Article 3 of the Nevada Constitution which clearly divides and separates the Legislative and Judicial functions of the State; that if by such violation of Article 3 of the Nevada Constitution there was a violation of the Ninth and Tenth Amendments of the United States Constitution which retain to and reserve to, respectively, the people all rights not specifically enumerated or delegated to the United States, to-wit; by violation of said State Constitution which was written by the people under the people's power retained or reserved by the United States Constitution.

2. Whether the Nevada Supreme Court, through its error in interpretation of facts, deprived the citizens of the annexed areas and of North Las Vegas its fair and lawful portion of all tax revenues and in doing such brought about

denial of equal protection of the law, United States Constitution, Fourteenth Amendment, Section 1.

3. Whether the action of the Nevada Supreme Court, through error in interpretation of facts, and consequently as a result of the subsequent reapportionment is violative of the one man, one vote principle and the United States Constitution, Fourteenth Amendment, Section 1.

4. Whether by action of the Nevada Supreme Court, through error in interpretation of facts, the Petitioner will have denied to it, on behalf of the citizens of North Las Vegas and those citizens residing in the annexed areas, the rights and privileges guaranteed under the Fifth Amendment of the Constitution of the United States.

CONSTITUTIONAL PROVISIONS INVOLVED

Constitution of the United States, Ninth Amendment:

> **"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."**

Constitution of the United States, Tenth Amendment:

> **"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."**

Constitution of the United States, Fourteenth Amendment:

> **". . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."**

Constitution of the United States, Fifth Amendment:

> **". . . nor shall any person . . . be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation."**

STATEMENT OF THE CASE

At its adjourned regular meeting held on December 1, 1969, the Petitioner, City of North Las Vegas, adopted two annexation ordinances being Ordinance No. 395 (Annexation No. 38) and Ordinance No. 398 (Annexation No. 41). On December 15, 1969, Respondent (Plaintiff) Sunrise Manor Town Protective Association, et al., filed a Complaint for declaratory relief challenging said annexations. Earlier, on November 24, 1969, Plaintiff County of Clark filed an Amended Complaint challenging the Petitioner's earlier resolution of intent, etc., in regard to the annexations. Later, these two actions were consolidated. A majority of the facts in the case were stipulated to by all the parties and filed. [Appendix E, page 27, *infra.*]

After a contested trial, the District Court denied the relief prayed for by Plaintiffs and ordered that Annexations No. 38 and 41 be, and the same become a valid part of the Community of North Las Vegas, pursuant to North Las Vegas Ordinances No. 395 and No. 398, respectively.

Plaintiffs below appealed the decision of the District Court to the Supreme Court of Nevada. Oral argument was presented to the Nevada Supreme Court in December, 1971. On January 10, 1973, the Nevada Supreme Court rendered its Opinion [Appendix A, page 15, *infra.*] and held the two annexation ordinances adopted by the Petitioner, City of North Las Vegas, invalid.

On or about the 30th day of January, 1973, Petitioner filed its Petition for Rehearing with the Supreme Court of Nevada. On March 20, 1973, Rehearing was denied. [Appendix B, page 19, *infra.*] On the 23rd day of March, 1973, the Supreme Court ordered return of the remittitur from the

Eighth Judicial District Court to the Nevada Supreme Court and that the effectiveness of said remittitur be stayed for thirty (30) days after March 23, 1973. On March 29, 1973, the Nevada Supreme Court annulled its March 23, 1973 order. On July 2, 1973, the Nevada Supreme Court denied Petitioner's application for a stay of enforcement of its Judgment of January 10, 1973. [Appendix C, page 20, *infra*.]

The Nevada Supreme Court failed to look at all the stipulated facts and failed to consider them in their entirety in composite form when it considered only Stipulation No. 46, which stated that 4.27% of the total acreage in the area contended by the Defendant as being developed for urban purposes was exclusive of the real property comprising Nellis Air Force Base and other parcels of tax exempt property in said area because it is patently obvious that Stipulation No. 21 shows that the area delineated on said map and aerial photograph as being developed for urban purposes, lying outside the confines of Nellis Air Force Base, contained only 476 acres and, further, wherein Stipulation No. 45 points out that the total acreage of said 47 parcels of property owned by said 17 petitioning property owners was 160.23 acres, it is evident that the said 17 property owners did, in fact, represent more than 10% of the total acres and, in fact, represented 33.66% rather than 4.27%.

The requirements of NRS 268.582 were fulfilled and complied with in all respects, but due to the errors described above, the Court erroneously and incorrectly applied fact and law stating the requirements of NRS 268.582 were not met, only those of 268.584; further compliance with the requirements is stipulated to by the parties.

In Petitioner's Petition for Rehearing to the Nevada Supreme Court, it requested such rehearing basing such request on the fact that the Nevada Supreme Court based its decision

on patent error as to the facts of the case. Further, because of such error in regard to the facts, Petitioner raised the point that the Constitution of Nevada, Article 3, was violated by the Supreme Court's exercise and usurpation of the legislative functions of the state; that if Article 3 of the Nevada Constitution was violated, then the Ninth and Tenth Amendments of the United States Constitution were in turn violated in regard to Petitioner's citizens in that they have retained and reserved the right to promulgate the Nevada Constitution which under Article 3 clearly separates the Legislative and Judicial Departments; that other points regarding a Federal Question were raised in Petitioner's Petition for Rehearing, to-wit: violation of the Fourteenth and Fifth Amendments of the Constitution of the United States.

REASONS RELIED OF FOR ALLOWANCE OF WRIT

The federal question may properly be presented for the first time on motion for rehearing. It was not until Petitioner (Respondent below) made its motion for rehearing that it raised the federal questions involved here. The raising of such was not necessary until in its decision of January 10, 1973, the Nevada Supreme Court [Appendix A, page 15, *infra.*] through error of interpretation of facts, in effect, usurped the powers of the Legislative departments of the State of Nevada. In doing such, it invaded and violated the rights of the citizens of Petitioner City of North Las Vegas reserved, retained and given to them by the Fifth, Ninth, Tenth, and Fourteenth Amendments of the Constitution of the United States.

The Supreme Court of the United States has held in *Herndon v. State of Georgia* 295 U.S. 441, 55 S. Ct. Rptr. 794 (1935), that a federal question may properly be presented for the first time on motion for rehearing. At page 795, the Court stated:

> ". . . There is no doubt that the federal claim was timely if the ruling of the State court could not have been anticipated and a petition for rehearing presented the first opportunity for raising it. Saunders v. Shaw, 244 U.S. 317, 320, 37 S. Ct. 638, 61 L.Ed. 1163; Ohio v. Akron Park District, 281 U.S. 74, 79, 50 S. Ct. 228, 74 L.Ed. 710, 66 A.L.R., 1460; Missouri v. Gehner, 281 U.S. 313, 320, 50 S. Ct. 326, 74 L.Ed. 870; Brinkerhoff–Faris Co. v. Hill, 281 U.S. 673, 677-678, 50 S. Ct. 451, 74 L.Ed. 1107; American Surety Co. v. Baldwin, 287 U.S. 156, 164, 53 S. Ct. 98, 77 L.Ed 231, 86 A.L.R. 298; Great Northern R. Co. v. Sunburst Co., 287 U.S. 358, 367, 53 S. Ct. 145, 77 L.Ed. 360, 85 A.L.R. 254. The whole point, therefore, is whether the ruling here assailed should have been anticipated."

Not anticipated was that the Nevada Supreme Court would base its decision on misinterpretation of facts which were, in deed, in large stipulated to.

Obvious patent error was made by the Supreme Court as to the facts of the case when it stated:

A. "The record indicates that the board of county commissioners did not petition the City of North Las Vegas for either Annexations Nos. 38 or 41, and neither were there proper petitions presented of not less than 10 percent of the property owners' of land developed for urban purposes within each of the annexations so as to confer jurisdiction on the city to enlarge its own boundaries." [Appendix A, page 15, *infra*]

B. "Though the 17 property owners who signed the petitions numerically represent more than 10% of the property owners of land developed for urban purposes within Annexation No. 41, they represent *less* than 10% of the total 3749 acres of land developed for urban purposes within Annexation No. 41." [Appendix A, page 15, *infra.*]

C. "Since the petitions which were signed for Annexation No. 41 represented less than 10 percent of the total land developed for urban purposes within the area, such petitions were insufficient to confer jurisdiction on the city to proceed with Annexation No. 41 pursuant to NRS 268.582." [Appendix A, page 15, *infra.*]

D. "The absence of adequate petitions pursuant to NRS 268.582, rendered subsequent actions by the city relative to Annexations Nos. 38 and 41 wholly nugatory, and the two annexation ordinances adopted by the City of North Las Vegas are therefore invalid." [Appendix A, page 15, *infra.*]

The Court failed to look at all the stipulated facts and failed to consider them in their entirety in composite form when it considered only Stipulation No. 46, which stated that 4.27% of the total acreage in the area contended by the Defendant as being developed for urban purposes was exclusive of the real property comprising Nellis Air Force Base and other parcels of tax exempt property in said area because it is patently obvious that Stipulation No. 21 shows that the area delineated on said map and aerial photograph as being developed for urban purposes, lying outside the confines of Nellis Air Force Base, contained only 476 acres and, further, wherein Stipulation No. 45 points out that the total acreage of said 47 parcels of property owned by said 17 petitioning owners was 160.23 acres, it is evident that the said 17 property owners did, in fact, represent more than 10% of the total acres and, in fact, represented 33.66% rather than 4.27%.

The requirements of NRS 268.582 were fulfilled and complied with in all respects, but due to the errors described above, the Court erroneously and incorrectly applied fact and law stating the requirements of NRS 268.582 were not met, only those of 268.584; further compliance with the requirements was stipulated to by the parties.

Because of this, the rights of the citizens of Petitioner, City of North Las Vegas, have been violated; specifically their rights under the Ninth and Tenth Amendments of the Constitution of the United States. In retaining to and reserving to, respectively, the people, those powers not enumerated or delegated by the Constitution, the framers left to the people the right to frame state constitutions. The Nevada Constitution at Article 3 specifically separates the Legislative and Judicial departments of the state. If, indeed, the Judicial attempts to perform legislative functions, it is usurping the people's rights granted by the Ninth and Tenth Amendments of the Consti-

tution of the United States. The people framed the State Constitution under these federally retained and reserved powers. While a state Supreme Court may interpret the legislative acts, it may not act contra to such acts.

As was pointed out in *Monaco v. Mississippi*, 292 U.S. 313, 323, 78 L.Ed. 1282, 1286, 54 S. Ct. 745:

> "The doctrine of separation of powers is fundamental in our system. It arises, not from Article Three nor any other single provision of the Constitution, but because 'behind the words of the constitutional provisions are postulates which limit and control'."

The Nevada Supreme Court's usurpation of the Nevada Legislative function is violative of the United States Constitution. In 1902, the United States Supreme Court in *Dreyer v. Illinois*, 187 U.S. 71, 47 L.Ed. 79, 23 S. Ct. 28 stated:

> "A local statute investing a collection to persons not of the Judicial department with powers that are Judicial, and authorizing them to exercise the pardoning power which alone belongs to the governor of the state, presents no question under the Constitution of the United States------Whether the legislative, executive, and judicial powers of a state shall be kept altogether distinct and separate, or whether persons or collections of persons belonging to one department may, in respect to some matters, exert powers which, strictly speaking, pertain to another department of government, is for the determination of the state."

The State of Nevada, through its Constitution, has deter-

mined that the judicial and legislative departments shall be separate. Violation of this by the state judicial department is violation of the people's rights under the Constitution of the United States.

Further, the Supreme Court in its erroneous interpretation of facts has violated the rights and privileges of the citizens of the annexed areas in that they will be deprived of existence within the territorial boundaries of Petitioner and denied all the benefits and obligations arising therewith, without due process of law, as guaranteed by the Constitution of the United States.

The action of the Nevada Supreme Court, through error in interpretation of facts, and consequently as a result of the subsequent reapportionment is violative of the one man, one vote principal and the United States Constitution, Fourteenth Amendment, Section 1.

As is pointed out in 16 Am. Jur. 2d, Constitutional Law §488, page 850, 851, note 13:

> "It is by practical considerations based upon experience rather than by theoretical inconsistencies that the question of equal protection is to be answered. *Railway Express Agency, Inc. v. New York*, 336 U.S. 106, 93 L.Ed. 533, 69 S. Ct. 463."
>
> "The equal protection clause of the Fourteenth Amendment is a restriction on the state governments and operates exclusively upon them * * * The inhibitions of the Fourteenth Amendment include all of the departments of state government, including not only the political, but also the judicial."

> "The actions of state courts and of judicial officers in their official capacities, even though taken for the enforcement of private agreements, is state action within the meaning of the equal protection clause. Shelley v. Kraemer, 334 U.S. 1, 92 L.Ed. 1161, 68 S. Ct. 836, 3 A.L.R. 2d 441."

16 Am. Jur. 2d, Constitutional Law, § 491, pages 854, 855.

That to hold invalid the annexations by Petitioner is to deny to Petitioner, its citizens and the citizens of the annexed areas equal protection of the laws.

CONCLUSION

For these reasons, a writ of certiorari should issue to review the judgment and opinion of the Supreme Court of the State of Nevada.

Respectfully submitted,

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DATED:_____, 1973

APPENDIX A

(State of Nevada - Supreme Court Opinion)

(No. 6584)

(Entered January 10, 1973)

Per Curiam:

This is an appeal from judgment entered in favor of the City of North Las Vegas, after a hearing based largely on stipulated facts, upholding the validity of two annexations, annexations Nos. 38 and 41.

The record on appeal is voluminous. Numerous errors are alleged concerning the interpretation of the applicable statutes and the procedures employed by the city. However, the interpretation of NRS 268.582[1] by the trial court, which we deem erroneous, makes it unnecessary to discuss other issues. The trial court held that the petitioning procedure set forth in NRS 268.582 was not a jurisdictional prerequisite to annexation proceedings by the city, and was instead an alternative method of requiring annexation when the city did not proceed on its own initiative. We disagree.

The courts may determine whether a municipal corporation has exceeded legislative authority in extending its boundaries. NRS 268.604; *(State v. City of Kansas City)*, 317 P.2d 806 (Kan. 1957); *(City of Anaheim v. City of Fullerton)*, 227 P.2d 494 (Cal. 1951).

---

[1] NRS 268.582 provides as follows: *"Commencement of action by governing body on receipt of petition."* Upon petition of the board of county commissioners, or upon petition of not less than 10 percent of the property owners in an unincorporated area developed for urban purposes which is approximately described in the petition, the governing body of any city shall commence action in accordance with the provisions of NRS 268.584 to 268.590, inclusive."

The Nevada legislature clearly provided in NRS 268.582 that annexation proceedings are to be "commenced" by the city upon petition of the board of county commissioners, or of at least ten percent of the property owners in an area developed for urban purposes. The initiation of annexation proceedings by the filing of petitions is the procedure employed by most of the states. *2 McQuillin,* Municipal Corporations §7.30 at 424 (3rd ed. 1966). The record indicates that the board of county commissioners did not petition the City of North Las Vegas for either Annexations Nos. 38 or 41, and neither were there proper petitions presented "of not less than 10 percent of the property owners" of land developed for urban purposes within each of the annexations so as to confer jurisdiction on the city to enlarge its own boundaries. Cf. *City of Tucson v. Garrett,* 267 P. 2d 717 (Ariz. 1954).

Annexation No. 38:

When the initial petitions were circulated by the city among the property owners, the petition contained a boundary description of approximately 1600 acres of land developed for urban purposes, which was denominated Annexation No. 39 by the City. Seventy-five property owners had initially signed the petitions proposing annexation of the 1600 acres to the City of North Las Vegas. Subsequently, the city carved out 240 acres of the original 1600 acres and proposed to annex this smaller area as Annexation No. 38. The record does not indicate that any petitions were circulated by the city, or signed by the property owners, proposing annexation of the area denominated Annexation No. 38. The 75 property owners who had signed the initial petitions represented approximately 74 percent of the land and 36 percent of the assessed valuation within Annexation No. 38. However, the petitions initially circulated by the city for Annexation No. 39 would not constitute compliance with NRS 268.582, insofar as Annexation No. 38 was concerned, since the petitions must approximately describe the unincorporated area developed for urban purposes

which is proposed for annexation. Thus, the city could not rely on the petitions describing an area approximately six times as large as that proposed for annexation in No. 38. *2 McQuillin*, supra. § 7.31 at 434.

Annexation No. 41:

Petitions which were circulated by the city for Annexation No. 41 were signed by *17* of the *55* owners of land developed for urban purposes within the area. Though the 17 property owners who signed the petitions numerically represent more than 10 percent of the property owners of land developed for urban purposes within Annexation No. 41, they represent *less* than 10 percent of the total 3749 acres of land developed for urban purposes within Annexation No. 41. NRS 268.582 provides that " . . . upon petition of not less than 10 percent of the property owners . . . ,". The statute, however, does not specify whether the percentage calculation should be based on the number of property owners, or whether such percentage should be based on the total acreage and assessed valuation of the area proposed for annexation in the petition, in much the same way that "majority of property owners" is defined in NRS 268.574 (3).[2]

The legislature must be presumed to have intended a consistent body of law within NRS 268.570 to 268.608, inclusive, 82 CJS, Statutes § 316 at 548 (1953), and inasmuch as the sufficiency of protests against annexation [NRS 268.592]

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[2]NRS 268.574 provides as follows: "*Definitions.* As used in NRS 268.570 to 268.608, inclusive:

". . .

"3. 'Majority of the property owners' in a territory means the record owners of real property:

(a) Whose combined value is greater than 50 percent of the total value of real property in the territory, as determined by assessment for taxtion; and

(b) Whose combined area is greater than 50 percent of the total area of the territory, excluding lands held by public bodies."

is determined on the basis of total acreage and assessed valuation, so must the sufficiency of petitions to initiate annexation proceedings [NRS 268.582] be based on total acreage and assessed valuation. Since the petitions which were signed for Annexation No. 41 represented less than 10 percent of the total land developed for urban purposes within the area, such petitions were insufficient to confer jurisdiction on the city to proceed with Annexation No. 41 pursuant to NRS 268.582.

The absence of adequate petitions pursuant to NRS 268.582, rendered subsequent actions by the city relative to Annexations Nos. 38 and 41 wholly nugatory, and the two annexation ordinances adopted by the City of North Las Vegas are therefore invalid.

/s/ Thompson, C. J.

/s/ Mowbray, J.

/s/ Gunderson, J.

/s/ Batjer, J.

/s/ Zenoff, J.

APPENDIX B

(State of Nevada - Supreme Court)

(No. 6584)

(ON PETITION FOR REHEARING)

(Entered March 20, 1973)

(Filed in District Court March 30, 1973)

Upon consideration of the petition for rehearing filed herein, the Court having again reviewed and being fully advised in the premises and the law, it is now ordered, adjudged and decreed, to the effect: "Rehearing denied."

Judgment, as quoted above, entered this 20th day of March, 1973.

APPENDIX C

(State of Nevada - Supreme Court)

(Filed ORDER July 2, 1973)

(No. 6584)

Respondent's application for stay of enforcement of judgment is denied.

/s/ Thompson, C. J.

/s/ Gunderson, J.

/s/ Batjer, J.

/s/ Zenoff, J.

APPENDIX D

(Eighth Judicial District Court, Clark County, Nevada)

(Entered December 15, 1970)

(No. A 72106 and No. A 72766)

DECISION

The above two matters having been heretofore consolidated for purposes of trial concern themselves with a controversy as to the validity of certain actions of the CITY OF NORTH LAS VEGAS pertaining to alleged annexations of real property in Clark County, Nevada to the said city. The Plaintiffs SUNRISE MANOR TOWN PROTECTIVE ASSOCIATION and the COUNTY OF CLARK have made certain assertions concerning the validity of Ordinances Nos. 395 and 398 wherein there was certain territory annexed to the pleadings and stipulations as Annexation No. 38 and Annexation No. 41.

The matter was tried before the Court to a great extent on agreed stipulations as to the facts and agreed exhibits containing aerial surveys, maps, etc.

All of the parties heretofore stipulated on August 14, 1970 by lodging with the Court some 17 pages of an agreed set of facts involved in the controversy. It would be cumbersome to relate the 17 pages and 96 separate stipulated facts here, so those facts hereinafter will be referred to by the number of the stipulation.

The Court deems that the first area of consideration is whether or not N. R. S. 268.532 is an exclusive method by which a city may annex property to its boundaries or whether N. R. S. 268.584 sets forth an alternative method. In perusing the statutes contained in Chapter 268, it is clear to the Court

that N. R. S. 268.582 and N. R. S. 268.584 set forth alternative methods for annexation in cities wherein in a county containing 120,000 population or more.

After making this determination we deem it appropriate to discuss and decide the validity of the actual Annexation No. 38 and No. 41.

1. First, let us examine arguments pro and con as to the validity of Annexation No. 38. Concerning this annexation, by Stipulation No. 49, it was stipulated that N. R. S. 268.584, Subsection 1 thereof was complied with, and thus, in so far as Annexation No. 38 is concerned, it was commenced by action of the City of North Las Vegas, and complies with N. R. S. 268.584. However, the argument by the plaintiffs contend that Subsection 2 of said statute was not complied with. Subsection 2 states:

> "Not less than 60% of the area developed for urban purposes contained in not less than one geographical quadrant using the City Hall as the quadrant center and contiguous to the municipality shall be included in an annexation proposal."

It is urged upon the Court (by counsel for the City of North Las Vegas, although he states he helped draft these statutes) that this Court should ignore it in that it is totally impossible of statutory construction and has no meaning in this method of annexation.

2. In so far as Subsection 2 is concerned, in analyzing and reading what little testimony was given and from the exhibits submitted, this Court is of the opinion that Subsection 2 is incapable of an exact meaning, and therefore has no bearing in the controversy involved.

3. The next problem concerning Annexation No. 38 is conformity with the protest statutes. Plaintiffs urge upon the Court that at the time of the Public Hearing or thereafter, the statutes were conformed with. In answer to this question,

we must look to NRS 268.592 and 594 to determine whether or not there is sufficient protest to invalidate Annexation No. 38. In determining the sufficiency of the protests, we must look at Stipulations No. 56 through No. 63, and to NRS 268.592. 592 requires that unless a majority of the property owners protest such annexation either verbally at the public hearing or in writing, that the annexation is valid. What constitutes a majority of the property owners is defined in NRS 268.574, Subsection 3 which states:

> "Majority of the property owners" in a territory means the record owners of real property:
> (a) Whose combined value is greater than 50 percent of the total value of real property in the territory, as determined by assessment for taxation; and
> (b) Whose combined area is greater than 50 percent of the total area of the territory.

4. As this Court reads Stipulations No. 56 through No. 63, it is conclusive that there has not been a majority of the property owners who have filed a valid and subsisting protest.

5. It is further contended by the plaintiffs that Annexation No. 38 should be voided by reason of the fact that to allow said annexation would be to allow "Piecemeal" annexation which is claimed to be contrary to the legislative policy of the State of Nevada pertaining to annexations. Plaintiffs direct the Court's attention to NRS 268.572, Subsections 1 through 5, wherein legislative declaration sets forth legislative policy of the State concerning annexation. In reading the whole of the section, the Legislature has said through Subsection 5 that "piecemeal" annexation of unincorporated areas should be avoided, securing to residents within the area proposed to be annexed the right of protest. It seems to the Court that Subsection 5 does not necessarily mean that piecemeal annexation is absolutely void but that if piecemeal annexation is permitted,

property owners have the right to protest, and therefore, Annexation No. 38 should not be voided on this ground.

By reason of the foregoing, in so far as Annexation No. 38 is concerned, this Court is of the opinion that Annexation No. 38 is valid and that area is now incorporated within the corporate limits of the City of North Las Vegas, and that the Preliminary Injunction for that area be, and the same is hereby dissolved.

6. The Court next concerns itself with Annexation No. 41. We have heretofore stated that it is the Court's opinion that the statutes of this state as hereinabove referred to have set forth alternative methods for proceedings for annexation and we need not reiterate the court's findings in this connection. By Stipulation No. 50, it is conceded that the City of North Las Vegas commenced annexation of No. 41 by resolution pursuant to NRS 268.584.

7. The next problem concerns whether or not Annexation No. 41 complies with the statutes of this state concerning the general standards under which land may be annexed. NRS 268.580 sets forth the so-called general standards. Said statute sets forth that every annexation must comply with the requirements of Subsection 1 and *either* Subsections 2, 3, 4 or 5. By Stipulation No. 12, it is conceded that Annexation No. 41 meets Subsection 1. It is conceded by the City of North Las Vegas that Annexation No. 41 does not meet 2, 4 or 5, and we are, therefore, confronted with NRS 268.580, Subsection 3. In perusing Stipulation No. 27 and No. 28, it would seem to the Court that the parties have stipulated that Subsection (b) of 580 has been complied with but Subsection (a) is questionable. Subsection 3 states that the "Purpose of this subsection is to permit municipal governing bodies to extend corporate limits to include all nearby areas developed for urban purposes where it is necessary to include areas, which at the time of annexation, *are not yet developed* for urban purposes...". (Emphasis added).

8. It seems to the Court that by reason of this provision of Subsection 3, Subsection (a) thereof has been complied with.

9. Counsel for plaintiffs vigorously attack Annexation No. 41 on the further ground that there were sufficient protests in compliance with NRS 268.592 to invalidate the ordinance adopting said annexation. In determining whether or not there were sufficient protests, we again must look to NRS 268.574 in determining what constitutes a majority of property owners. Looking at the stipulations concerning the facts, we must look to Stipulations No. 70 through No. 81. In analyzing those stipulated facts, it occurs to the Court that whether or not the alleged protests are sufficient revolves around the validity of the protest of Col. John Anderson on behalf of Nellis Air Force Base (Department of Defense, United States Government). It is stipulated that Col. Anderson appeared at the public hearing and orally lodged a protest on behalf of the United States, stating that he had received an oral communication from a Mr. Grant Reynolds, General Counsel for the Secretary of the Air Force in San Francisco, and Mr. Reynolds told him to appear at the hearing and make a protest. Interpreting this conduct in relation to NRS 268.594, Subsection 2 (d), a protest, to be sufficient by an artificial person (Uncle Sam), must be signed by an authorized agent and accompanied by a copy of such authorization. No such authorization was lodged with the City Council of North Las Vegas at the time of the alleged oral protest or within 15 days thereafter, (the statutory time allowed), nor has it yet been received. The Court deems that such protest was rightfully declared to be invalid, and by reason thereof, the Annexation of No. 41 is not invalid by reason of protest by property owners. Thus, the Preliminary Injunction heretofore issued from this Court be, and the same is hereby dissolved, and vacated in Annexation No. 41.

IT IS THEREFORE ORDERED THAT ANNEXATIONS No. 38 and No. 41 be, and the same become a valid part of the

community of North Las Vegas, pursuant to North Las Vegas Ordinance No. 395 and Ordinance No. 398, respectively,

Counsel may prepare the appropriate Order.

DATED and DONE this 15th day of DECEMBER, 1970.

/s/ William R. Morse

DISTRICT JUDGE

APPENDIX E

(IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA)

(STIPULATION OF PLAINTIFFS AND DEFENDANTS BELOW)

(No. A 72106 and No. 72766)

STIPULATION

IT IS HEREBY STIPULATED between all of the parties in the above entitled actions, by and through their respective attorneys, as follows:

(A) That all of the Motions for Summary Judgment heretofore filed in said actions be denied.

(B) That said actions shall proceed to trial based upon the agreed Statement of Facts set forth in Paragraph C of this Stipulation, with the only areas in which testimony may be introduced being those areas set forth in Paragraph D of this Stipulation, and it is further stipulated that for the purpose of such trial the Court may consider all of the pleadings, papers, documents, responses to requests for admissions and affidavits on file in either of the above entitled actions and all of the exhibits introduced into evidence at the hearing on the County of Clark's and Town of Sunrise's Motion for Preliminary Injunction in Case No. A 72106.

(C) That the following Statement of Facts is true, and it is further stipulated and agreed that the Court may consider the same as facts in these actions, subject to the introduction of additional evidence in the areas set forth in Paragraph D of this Stipulation, and it is expressly stipulated and agreed that the Court may also draw all inferences and deductions from said facts in the same manner as when evidence is introduced in

the ordinary course of a trial, and it is further stipulated and agreed that any of the parties may object to any of the stipulated facts upon the ground that such facts are irrelevant or immaterial, but as to such facts as may be objected to as irrelevant or immaterial, the parties do agree that said facts are true, and further reserve the right to object to the relevancy or materiality of any of the facts stated in any of the affidavits.

STATEMENT OF FACTS

1. That in the latter part of May and the early part of June 1969 there were filed with the City Clerk of Defendant three (3) requests for annexation, by the respective owners thereof, each describing a separate undeveloped parcel, the aggregate assessed value of which was $47,070.00 and the total acreage of which was 121.01 acres, which said parcels lie within the area ultimately annexed to the Defendant in Annexation No. 38.

2. That at its adjourned regular meeting of June 16, 1969, the City Council of the Defendant held a policy discussion with respect to the annexation of the territory lying between the then existing city limits of the Defendant and Sunrise Mountain, including Nellis Air Force Base, and directed to the administrative staff of the Defendant to make an overall study on the feasibility of annexing all of various portions of such territory.

3. That pursuant to such directions, the administrative staff of the Defendant undertook a study on the feasibility of annexing an area which included the areas subsequently considered separately by the City Council of the Defendant as Annexations No. 38, 39, 40 and 41, together with the South Half of Section 8, Township 20 South, Range 62 East, and all of Section 17, Township 20 South, Range 62 East.

4. That in connection with such study, the Planning Analyst of the Defendant caused petitions to be circulated among the property owners in the study area in order to determine the number of property owners favoring or opposing the

annexation of said area or any part or parts thereof.

5. That for the purpose of circulating said petitions, said territory was divided into six areas and separate petitions were circulated in each area, said areas being described as follows:

> The South One Half (S 1/2) of Section 7, and all of Sections 18 and 19, in Township 20 South, Range 62 East, MDB&M.
>
> All of Section 20, Township 20 South, Range 62 East, MDB&M.
>
> S 1/2 of Section 5, Township 20 South, Range 62 East.
>
> The South One Half (S 1/2) of Section 6, and the North One Half (N 1/2) of Section 7, Township 20 South, Range 62 East, MDB&M.
>
> The North Half (N 1/2) of Section 7, the South Half (S 1/2) of Section 6, the North Half (N 1/2) of Section 8, all of Section 5 lying outside the boundaries of Nellis Air Force Base, all in Township 20 South, Range 62 East, M.D.B.&M. Nevada, and all the land lying within the present boundaries of Nellis Air Force Base situate in Township 20 South, Range 62 East, and Township 19 South, Range 62 East, M.D.B.&M., Clark County, Nevada.
>
> The South One Half (S 1/2) of Section 8, and all of Section 17, Township 20 South, Range 62 East, M.D.B.&M.

6. That, with the exception of the 3 separate annexation requests referred to in Fact 1 above, and 2 additional separate requests for annexation of parcels of property also within the area subsequently annexed to the Defendant in Annexation No. 38 received by the Defendant in early September of 1969,

all of said petitions were circulated between late August of 1969 and early October of 1969.

7. That as a result of such study, the administrative staff of the Defendant determined that the annexation of the South Half of said Section 8 and of said Section 17 was infeasible at that time and divided the remaining area into four separately numbered annexations, to-wit; Annexations No. 38, 39, 40 and 41, for further proceedings.

8. That thereafter a separate engineer's report for the extension of municipal services into the territory proposed to be annexed in each of said annexations was prepared in procedural compliance with NRS 268.578.

9. That such engineers' reports were filed with the City Clerk of Defendant at least 20 days prior to the public hearing on each of said annexations.

10. That the engineers' reports with respect to Annexations No. 38, 39, 40 and 41, except with respect to the area within the confines of Nellis Air Force Base, provide that the Defendant will extend its police and fire protection and street maintenance into each of the areas encompassed therein and will continue to provide water service to such areas as it has heretofore; that the Clark County Sanitation District, within whose jurisdiction these areas lie, presently installs and will continue to install sewer intercepter extensions in each of said areas; that garbage collection and gas, electrical and telephone services are presently furnished and will continue to be furnished by private franchised utilities; and that street extensions will be built under normal development practices by the property owners as provided for in Title 16 of the Municipal Code of the Defendant.

11. That the engineer's report with respect to Annexation No. 41 does not provide for the actual extension of municipal services into the area comprising Nellis Air Force Base for the reason that the United States Government, through the Department of Defense, is providing and will continue to provide such services within such area.

12. That the areas annexed to the Defendant under Annexations No. 38 and 41, the validity of which annexations is being challenged in these proceedings, comply with NRS 268.580(1) in that each of said areas was contiguous, to the extent of not less than one-eighth of its aggregate external boundaries, to the city limits of the Defendant at the time the annexation proceedings were instituted and that no part of such areas was included within the boundaries of any other incorporated city.

13. That, with respect to Annexation No. 38, the total number of acres annexed to the Defendant thereunder was 240 acres, which included the Los Cerritos Estates and Ponderosa Manor subdivisions, the Northland Gardens Apartment House development and Von Tobel Junior High School.

14. That, with respect to said Annexation No. 38, there was a total resident population, at the time the annexation proceedings were instituted, in said area of 1,104 persons, as determined by the methods provided for in NRS 268.608.

15. That the area annexed to the Defendant under Annexation No. 38 therefore complies with NRS 268.580 (2) in that said area had, at the time the annexation proceedings were instituted, a total resident population density of not less than two persons per acre of land included within the boundaries of such area.

16. That the area annexed to the Defendant under Annexation No. 41, taken as a whole, is not developed for urban purposes as defined in NRS 268.580.

17. That, with respect to Annexation No. 41, there are on file herein a map and an aerial photograph delineating what the Defendant contends to be the area included in such annexation which is developed for urban purposes and the area thereof not developed for urban purposes.

18. That the area delineated on said map and aerial photograph as being developed for urban purposes contains 3.749 acres;

19. That the area delineated on said map and aerial photograph as being developed for urban purposes had, at the time the annexation proceedings were instituted, a total estimated resident population, including 6,688 military personnel and their dependents assigned to, and living within the confines of, Nellis Air Force Base of 7,690 persons as determined by the methods provided for in NRS 268.608.

20. That the area delineated on said map as being developed for urban purposes therefore had, at the time the annexation proceedings were instituted, a total estimated resident population density, including military personnel and their dependents assigned to, and living within the confines of, Nellis Air Force Base, of not less than two persons per acre of land included within the boundaries of such area.

21. That the area delineated on said map and aerial photograph as being developed for urban purposes and lying outside the confines of Nellis Air Force Base contains 476 acres.

22. That the area delineated on said map and aerial photograph as being developed for urban purposes and lying outside the confines of Nellis Air Force Base had, at the time the annexation proceedings were instituted, a total estimated resident population, including some military personnel and their dependents assigned to Nellis Air Force Base, of 1,002 persons, as determined by the methods provided for in NRS 268.608.

23. That the area delineated on said map and aerial photograph as being developed for urban purposes and lying outside the confines of Nellis Air Force Base therefore had, at the time the annexation proceedings were instituted, a total estimated resident population of not less than two persons per acre of land included within the boundaries of such area.

24. That the residents of the area delineated on said map and aerial photograph as being developed for urban purposes and lying outside the confines of Nellis Air Force base require municipal services.

25. That said municipal services are presently being furnished to the residents of said area by Clark County, with respect to police and fire protection and street maintenance; by the Defendant, with respect to water service; by the Clark County Sanitation District, with respect to sewer service, and by private franchised utilities, with respect to garbage collection and gas, electrical and telephone services.

26. That the Defendant is presently furnishing supplemental water service to the area within the confines of Nellis Air Force Base.

27. That the area delineated on said map as not being

developed for urban purposes is contiguous, on at least 60% of its aggregate external boundaries, to a combination of the city limits of the Defendant and the boundary of the area delineated thereon as being developed for urban purposes.

28. That that portion of Nellis Air Force Base shown on said map and aerial photograph as a "finger" of unurbanized land contains approximately 160 acres.

29. That the area annexed to the Defendant under said Annexation No. 41 is not bounded on at least 75% of its aggregate external boundaries by the existing city limits of the Defendant.

30. That the record owners of less than 75% of the individual lots or parcels of land within the area annexed to the Defendant under said Annexation No. 41 petitioned the governing body of the Defendant to annex such area to the Defendant.

31. That none of the petitions on file with the City Clerk of the Defendant with respect to Annexation No. 38 contained a boundary description of the entire area annexed to the Defendant thereunder.

32. That all but 5 of said petitions contained a boundary description and sketch map of the area considered separately as Annexation No. 39, which included the area ultimately annexed under Annexation No. 38, and which contained approximately 1,600 acres of land.

33. That each of the petitions filed with the City Clerk with respect to said Annexation No. 38 sufficiently identified the individual lots or parcels of property the annexation of which was being requested, in that the respective

property owners in signing such petitions listed either the address, legal description and/or assessor's parcel number of their properties thereon.

34. That most of said petitions were filed with the City Clerk of the Defendant on or about September 26, 1969.

35. That at the time said annexation petitions were being circulated there were 144 property owners representing 167 parcels of property within the area annexed to the Defendant under Annexation No. 38.

36. That a total of approximately 75 property owners, representing approximately 90 parcels of property located in the area ultimately annexed under Annexation No. 38, petitioned for annexation of their property to the Defendant.

37. That the total assessed value of the real property in the area encompassed within Annexation No. 38, was for the tax year 1969-70, $1,439,144.00.

38. That the total assessed value of the 90 parcels of property owned by the Petitioning property owners was, for the tax year 1969-70, $521,753.00.

39. That the total acreage of the 90 parcels of property owned by said petitioning property owners was 162.29 acres.

40. That said 75 petitioning property owners therefore represented 36.25% of the total assessed value and 73.71% of the total acreage of the real property in the area encompasses within Annexation No. 38.

41. That at the time the annexation proceedings with respect to Annexation No. 41 were instituted there was a

total of 54 property owners in the area contended by the Defendant as being developed for urban purposes, outside Nellis Air Force Base, representing 97 parcels of property.

42. That a total of 17 property owners, representing 47 parcels of property in the area contended by the Defendant as being developed for urban purposes, petitioned for annexation of their property to the Defendant under said Annexation No. 41.

43. That the total assessed value of the real property in the area of Annexation No. 41 contended by the Defendant as being developed for urban purposes was, for the tax year 1969-70, $591,456.00, exclusive of any valuation for the real property comprising Nellis Air Force Base and other parcels of tax exempt property.

44. That the total assessed value of the 47 parcels of property in said area, outside the confines of Nellis Air Force Base, owned by the 17 petitioning property owners was, for the tax year 1969-70, $163,386.00.

45. That the total acreage of said 47 parcels of property owned by said 17 petitioning property owners was 160.23 acres.

46. That said 17 petitioning property owners therefore represented 27.62% of the total assessed value and 4.27% of the total acreage in the area contended by the Defendant as being developed for urban purposes, exclusive of the real property comprising Nellis Air Force Base and other parcels of tax exempt property in said area.

47. That the petitions with respect to Annexation No. 41 did not differentiate between the area contended by the

Defendant as being developed for urban purposes and the area not developed for urban purposes.

48. That the Board of County Commissioners did not petition for annexation of either of the areas encompassed within Annexation No. 38 or Annexation No. 41.

49. That a Resolution of Intent to annex the area encompassed in Annexation No. 38 was adopted by the City Council of the Defendant on September 29, 1969, as required by NRS 268.584 (1).

50. That separate Resolutions of Intent to annex the areas encompassed in Annexations No. 39, 40 and 41 were adopted by the City Council of the Defendant on October 6, 1969, as required by NRS 268.584 (1).

51. That a separate notice of the public hearing on each of said annexations was given in the manner and for the time required by NRS 268.586.

52. That the City Council of the Defendant approved the engineer's report with respect to Annexation No. 38 at its adjourned regular meeting held on October 13, 1969.

53. That the City Council of the Defendant approved the engineers' reports with respect to Annexations No. 39, 40 and 41 at its adjourned regular meeting held on October 20, 1969.

54. That the public hearing with respect to Annexation No. 38 was held on November 3, 1969, at which said public hearing the engineer's report with respect to said Annexation No. 38 was first explained to the people in attendance at such public hearing.

55. That separate public hearings with respect to Annexations No. 39, 40 and 41 were held on November 10, 1969, at which said public hearings the engineer's report with respect to each of said annexations was first explained to the people in attendance at such public hearings.

56. That, with respect to Annexation No. 38, a total of 113 property owners representing 124 parcels of property protested such annexation verbally and/or in writing, 92 of which protests representing 97 parcels of property were determined by the Defendant to be valid protests and 21 of which, representing 27 parcels, were determined by the Defendant to be invalid protests for various reasons.

57. That the total assessed value of the 97 parcels of property owned by the 92 protesting property owners whose protests were determined by the Defendant to be valid protests was $587,869.00.

58. That the total acreage of said 97 parcels of property owned by said 92 protesting property owners was 56.89 acres.

59. That the total assessed value of the 27 parcels of property owned by the 21 protesting property owners whose protests were determined by the Defendant to be invalid protests was $640,241.00.

60. That the total acreage of said 27 parcels of property owned by said 21 protesting property owners was 19.02 acres.

61. That therefore the record owners of real property whose protests were determined by the Defendant to be valid protests, protesting said Annexation No. 38, representing real property the combined assessed value of which was 40.85% of the total value of the property as determined by assessment

for taxation, and the combined acreage of which was 25.84% of the total area of the territory encompassed within said Annexation No. 38.

62. That the combined assessed value of $1,228,100.00 the total acreage of 75.91 acres of the real property represented by all protesting property owners in Annexation No. 38, including both the valid and the invalid protests as determined by the Defendant, was 85.34% and 31.63%, respectively, of the total value of the property as determined by assessment for taxation, and the total area of the territory encompassed within said Annexation No. 38.

63. That of the 75 property owners in Annexation No. 38 who originally petitioned the Defendant for annexation of their property, 58 subsequently protested such annexation after it had become designated Annexation No. 38.

64. That at the time the annexation proceedings with respect to Annexation No. 41 were instituted there were 134 property owners representing 187 parcels of property, excluding the real property comprising Nellis Air Force Base and real property belonging to public utility companies which is separately assessed.

65. That the total assessed value of the real property in the entire area encompassed within said Annexation No. 41 was, for the tax year 1969-70, $1,131,728.00, exclusive of any valuation for the real property comprising Nellis Air Force Base and other parcels of tax exempt property and real property belonging to public utility companies.

66. That the value at which the Clark County Assessor carried the real property comprising Nellis Air Force Base on the assessment roll for Clark County for the tax

year 1969-70 was $471,521.00 for the land only.

67. That the real property comprising Nellis Air Force Base is exempt from taxation.

68. That the total value at which the Clark County Assessor carried all of the real property, including the real property comprising Nellis Air Force Base, encompassed within Annexation No. 41 on the assessment roll for the tax year 1969-70 was $1,603,249.00.

69. That the total acreage of the entire area encompassed within said Annexation No. 41, exclusive of the real property comprising Nellis Air Force Base and other parcels of tax exempt property and real property belonging to public utilities, was 1502.26 acres.

70. That the total acreage of Nellis Air Force Base was 4,272 acres.

71. That the total acreage of the entire area encompassed within said Annexation No. 41, including the real property comprising Nellis Air Force Base, was 5,774.26 acres.

72. That a total of 79 property owners representing 96 parcels of property, exclusive of the verbal protest lodged on behalf of Nellis Air Force Base, protested said Annexation No. 41 verbally and/or in writing, 53 of which protests representing 60 parcels of property were determined by the Defendant to be valid protests and 26 of which, representing 36 parcels, were determined by the Defendant to be invalid protests for various reasons.

73. That in addition to said 36 invalid protests, the Defendant also determined that the verbal protest lodged by

Colonel John Anderson, the then Commanding Officer of Nellis Air Force Base, on behalf of the United States Government, the record owner thereof, was also invalid, for the reason that said Colonel Anderson presented or filed no written authorization to lodge such protest.

74. That Colonel Anderson in lodging such protest was acting on the verbal authorization of Mr. Grant Reynolds, General Counsel to the Secretary of the Air Force.

75. That no document has ever been presented to or filed with the Defendant which purports to have given Mr. Reynolds authority to bestow such verbal authorization on Colonel Anderson.

76. That the total assessed value of the 60 parcels of property owned by the 53 protesting owners whose protests were determined by the Defendant to be valid protests was $419,661.00.

77. That the total acreage of said 60 parcels of property owned by said 53 protesting property owners was 141.34 acres.

78. That the total assessed value of the 36 parcels of property owned by the 26 protesting property owners whose protests were determined by the Defendant to be invalid protests was $281,093,00.

79. That the total acreage of said 36 parcels of property owned by said 26 protesting property owners was 373.29 acres.

80. That therefore the record owners of real property whose protests were determined by the Defendant to be valid protests, protesting said Annexation No. 41, represented real property the combined assessed value of which was 37.81% of

the total assessed value of the property, as determined by assessment for taxation, and the combined acreage of which was 2.45% of the total area of the territory encompassed within said Annexation No. 41.

81. That the combined assessed value of $700,754.00 and the total acreage of 514.63 acres of the real property represented by all protesting property owners in Annexation No. 41, including both the valid and the invalid protests as determined by the Defendants, other than the verbal protest on behalf of Nellis Air Force Base, was 61.92% and 8.91%, respectively, of the total value of the property, as determined by assessment for taxation, and the total area of the territory encompassed within said Annexation No. 41.

82. That separate annexation ordinances with respect to each of said annexations were introduced by the City Council at its adjourned regular meeting held on November 17, 1969.

83. That the City Council of the Defendant, at its regular meeting held on December 1, 1969, determined not to proceed with Annexations No. 39 and 40, and unanimously denied the adoption of the annexation ordinances with respect thereto.

84. That the annexation ordinances with respect to Annexation No. 38 and Annexation No. 41 were duly adopted at the regular meeting of the City Council of Defendant held on December 1, 1969.

85. That the annexation ordinance with respect to each of said annexations provided that the same would become effective at 12:01 a.m. on December 16, 1969.

86. That the annexation ordinance with respect to

each of said annexations was duly published in the manner required by the City Charter of the Defendant on December 4, 1969 and December 11, 1969.

87. That the contents of the annexation ordinance with respect to each of said annexations mechanically comply with the provisions of NRS 268.596.

88. That a certified copy of the annexation ordinance and an annexation map with respect to each of said annexations were duly recorded in the Office of the County Recorder of Clark County, Nevada, on December 2, 1969.

89. That at present, real property situate within the corporate limits of the Defendant is taxed at the constitutional limit of $5.00 per $100.00 of assessed valuation and real property situate within Sunrise Manor Township as is affected by Annexations No. 38 and 41, is taxed at the rate of $4.6903 per $100.00 of assessed valuation.

90. That the annual increase in property taxes which will accrue to a typical home in Los Cerritos Estates encompassed within Annexation No. 38 upon the annexation thereof, based upon an assessed valuation of $5,900.00, will be $18.75.

91. That residents within the corporate limits of North Las Vegas are subject to city surcharge taxation upon their monthly natural gas and electric power bills.

92. That the Municipal Code of the Defendant provides for a lesser rate for water services provided by its water utility to customers within its corporate limits than that charged for water service furnished to its customers outside the corporate limits of the Defendant.

93. That the annexation of the area encompassed within Annexation No. 38 and Annexation No. 41 will result in a loss of revenue to the County of Clark in the approximate amounts of $13,500.00 and $10,600.00, respectively.

94. That said losses in revenue to the County of Clark will be offset in part by the decrease in expenditures by reason of the fact that the County of Clark will no longer be furnishing municipal services within the annexed areas.

95. That the inhabitants and property within the City of North Las Vegas and within the unincorporated areas of Clark County are subject to the public debts of the respective governmental entities.

96. That revenues derived from certain State and County imposed taxes are apportioned among the various political subdivisions within the County of Clark on the basis of their respective populations as determined by the latest federal decennial census, said census figures being based upon the geographical limits of the political subdivisions in question as of January 1, 1960, and will be readjusted based upon the geographical limits of such political subdivisions as of January 1, 1970.

D. AREAS IN WHICH FURTHER TESTIMONY MAY BE PERMITTED

That the respective parties may introduce additional testimony and proofs only in the areas as follows:

1. The reasonableness of the manner in which the Defendant proceeded in the annexations in question.

2. Whether or not the provisions of NRS 268.584(2) have been satisfied with respect to the annexations in question.

3. The validity or invalidity of the protests determined by the Defendant to be invalid protests with respect to Annexation No. 41.

4. For the possible savings in fire insurance rates which may inure to the property owners upon their properties being annexed to the Defendant in the annexations in question.

DATED this 14th day of August, 1970.

GEORGE E. FRANKLIN, JR.
District Attorney

By /s/
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& TOWN OF SUNRISE
Clark County Courthouse
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